



CUSTOMS ACT 1901 - PART XVB

**TERMINATION REPORT
NO. 271**

**ALLEGED DUMPING OF
POLYVINYL CHLORIDE FLAT ELECTRIC CABLES
EXPORTED FROM THE PEOPLE'S REPUBLIC OF CHINA**

8 July 2015

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ABBREVIATIONS

| | |
|-----------------------------|--|
| \$ | Australian dollars |
| ACBPS | Australian Customs and Border Protection Service |
| ADN | Anti-Dumping Notice |
| Advance | Advance Cables Pty Ltd |
| APEC | Australia Pacific Electric Cables Pty Ltd |
| the Act | <i>Customs Act 1901</i> |
| Ao Ning | Ao Ning Electric Cables Co. Ltd |
| the applicant | Olex Australia Pty Ltd, also referred to as Olex |
| Australian industry | Collectively, <ul style="list-style-type: none">• Advance Cables Pty Ltd;• Australia Pacific Electric Cables Pty Ltd;• Olex Australia Pty Ltd; and• Prysmian Power Cables & Systems Australia Pty Ltd |
| Australian Wiring Rules | Australian Wiring Rules (AS/NZS 3000:2007) |
| China | People's Republic of China |
| the Commission | the Anti-Dumping Commission |
| the Commissioner | the Commissioner of the Anti-Dumping Commission |
| Dongguan | Dongguan Minxing Cables Co. Ltd |
| Electra | Electra Cables (Aust) Pty Ltd |
| the Guilin Group | Collectively, <ul style="list-style-type: none">• Guilin International Wire & Cable Group Co. Ltd;• Guilin Xianglong Wire & Cable Co. Ltd;• Guilin Feilong Wire & Cable Co. Ltd; and• Ao Ning Electric Cables Co. Ltd |
| Guilin International | Guilin International Wire & Cable Group Co. Ltd |
| Guilin Feilong | Guilin Feilong Wire & Cable Co. Ltd |
| Guilin Xianglong | Guilin Xianglong Wire & Cable Co. Ltd |
| Prysmian | Prysmian Power Cables & Systems Australia Pty Ltd |
| PVC | Polyvinyl chloride |
| RMB | Chinese Yuan |
| SEF | Statement of Essential Facts |
| the goods | the goods the subject of the application (also referred to as the goods under consideration or GUC) |
| the Parliamentary Secretary | the Parliamentary Secretary to the Minister for Industry and Science |
| WTO | World Trade Organization |

1 SUMMARY

1.1 Introduction

This report has been prepared in relation to the investigation by the Anti-Dumping Commission (the Commission) of the allegations made by Olex Australia Pty Ltd (Olex) (the applicant) that certain polyvinyl chloride (PVC) flat electric cables (the goods) exported to Australia from the People's Republic of China (China) at dumped prices have caused material injury to the Australian industry producing like goods.

Specifically, this report sets out the facts on which the Commissioner of the Anti-Dumping Commission (the Commissioner) has relied to terminate the investigation.

1.2 Reasons for Termination

The Commission notes that dumping duties will be recommended when:

- goods have been exported to Australia at dumped prices – dumping occurs where the export price is lower than the normal value in the country of export (normal value is usually based on domestic selling prices or costs); and
- the dumping has caused material injury to the Australian industry producing like goods.

The Commission has examined the period 1 July 2013 to 30 June 2014 (the investigation period) with respect to PVC flat electric cables exported to Australia from China and found that:

- the goods exported by
 - Guilin International Wire & Cable Group Co. Ltd;
 - Guilin Feilong Wire & Cable Co. Ltd;
 - Guilin Xianglong Wire & Cable Co. Ltd; and
 - Ao Ning Electric Cables Co. Ltd;were dumped, but at a margin of less than 2 per cent;
- the goods exported by Dongguan Minxing Cables Co. Ltd were not dumped; and
- the goods exported by all other exporters, which have been deemed to be uncooperative exporters¹, were dumped at a margin of 7.2 per cent; but
- the injury, if any, caused to the Australian industry by the dumped goods is negligible.

¹ The Commission is treating all other exporters of PVC flat electric cable from China in the investigation period as 'uncooperative exporters', as explained at section 6.4 of this report.

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Based on these findings, the Commissioner has terminated the investigation as it applies to:

- Guilin International Wire & Cable Group Co. Ltd, Guilin Feilong Wire & Cable Co. Ltd, Guilin Xianglong Wire & Cable Co. Ltd and Ao Ning Electric Cables Co. Ltd, under s.269TDA(1) of the *Customs Act 1901* (the Act) ²;
- Dongguan Minxing Cables Co. Ltd, under s.269TDA(1); and
- all other exporters, under s.269TDA(13).

A notice regarding the termination was published in *The Australian* newspaper on 9 July 2015. Anti-Dumping Notice (ADN) No. 2015/85 relates to the termination and was published on the Commission's web site (www.adcommission.gov.au) on 9 July 2015.

1.3 Application of law to facts

1.3.1 Authority to make decision

Division 2 of Part XVB of the Act sets out, among other matters, the procedures to be followed and the matters to be considered by the Commissioner in conducting investigations in relation to the goods covered by an application.

1.3.2 Application

On 3 September 2014, Olex lodged an application requesting that the Parliamentary Secretary to the Minister for Industry and Science (the Parliamentary Secretary)³ publish a dumping duty notice in respect of certain PVC flat electric cables exported to Australia from China.

The Commissioner was satisfied that the application was made in the prescribed manner by a person entitled to make the application.⁴

1.3.3 Initiation of investigation

After examining the application, the Commissioner was satisfied that:

- there is an Australian industry in respect of like goods; and
- there appeared to be reasonable grounds for the publication of a dumping duty notice in respect of goods the subject of the application.⁵

The Commissioner decided not to reject the application, and notice of the initiation of the investigation was published on 6 November 2014.⁶

² Unless otherwise specified, all legislative references in this report are to the *Customs Act 1901*.

³ The Minister for Industry and Science has delegated responsibility for anti-dumping matters to the Parliamentary Secretary.

⁴ Subsection 269TB(1).

⁵ Subsection 269TC(1).

⁶ Subsection 269TC(4).

1.3.4 Statement of essential facts

The Commissioner must, within 110 days after the initiation of an investigation, or such longer period as the Parliamentary Secretary allows under s.269ZHI, place on the public record a statement of the essential facts (SEF) on which the Commissioner proposes to base his recommendation. In formulating the SEF the Commissioner must have regard to the application concerned, any submissions concerning publication of the notice that are received within 40 days after the date of initiation of the investigation and any other matters that he considers to be relevant.

The Commissioner published the SEF on 25 May 2015.

1.3.5 Submissions received from interested parties

The Commission received submissions from interested parties during the course of the investigation. The submissions and their date of receipt are listed in **Non-Confidential Appendix 1**. Each submission that was received by the due date of 17 June 2015 has been considered by the Commission and addressed in this report.

Non-confidential versions of all submissions received are available on the Public Record for this investigation on the Commission's website at www.adcommission.gov.au.

1.4 Findings and conclusions

The Commissioner has made the following findings and reached a number of conclusions on the basis of that information.

1.4.1 The goods and like goods (Chapter 3 of this report)

Locally produced PVC flat electric cables are like to the goods the subject of the application.

1.4.2 Australian industry (Chapter 4 of this report)

There is an Australian industry producing like goods.

1.4.3 Australian market (Chapter 5 of this report)

The Australian market for PVC flat electric cable is supplied by the Australian industry and by imports, predominantly from China.

1.4.4 Dumping investigation (Chapter 6 of this report)

PVC flat electric cable exported to Australia in the investigation period was exported at prices that, when compared to the relevant normal values, resulted in the following dumping margins:

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| Exporter / Manufacturer | Dumping Margin |
|--|----------------|
| Guilin International Wire & Cable Group Co. Ltd Guilin Feilong Wire & Cable Co. Ltd Guilin Xianglong Wire & Cable Co. Ltd Ao Ning Electric Cables Co. Ltd | 0.9 % |
| Dongguan Minxing Cables Co. Ltd | - 2.7 % |
| Uncooperative exporters | 7.2 % |

1.4.5 Economic condition of the industry (Chapter 7 of this report)

The Australian industry producing like goods has experienced price depression, price suppression, reduced profits and reduced profitability during the investigation period. The Commission has found that some Australian industry prices were undercut.

1.4.6 Has dumping caused material injury? (Chapter 8 of this report)

The injury, if any, suffered by the Australian industry producing like goods that was caused by the dumped goods is negligible.

1.4.7 Non-injurious price

As the PVC flat electric cable that was dumped has not caused material injury to the Australian industry, the Commission has not attempted to calculate a non-injurious price.

1.5 Public record

The public record contains non-confidential submissions by interested parties, the non-confidential versions of the Commission's verification visit reports and other publically available documents. It is available by request in hard copy in Canberra or Melbourne (phone 03 8539 2438 to make an appointment), or online at www.adcommission.gov.au/cases/Pages/CurrentCases/EPR271.aspx.

This termination report should be read in conjunction with the documents on the public record.

2 BACKGROUND

2.1 Initiation

On 3 September 2014, Olex lodged an application requesting that the then Minister for Industry publish a dumping duty notice in respect of certain PVC flat electric cables (the goods) exported to Australia from China.

Olex alleged that the Australian industry has suffered material injury caused by PVC flat electric cables exported to Australia from China at dumped prices. Olex claimed that material injury in respect of PVC flat electric cables commenced in the quarter ending 31 March 2011, and that the injurious effects of dumping have been:

- price suppression;
- price depression;
- lost sales volume;
- loss of market share;
- reduced capacity utilisation;
- declining employment;
- reduced profit; and
- reduced profitability.

On 22 September 2014, Olex provided additional information to support its application. Further additional information was provided on 10 October 2014. As a result, the application consideration period recommenced and the final decision date was extended to 30 October 2014.

The Commissioner ultimately decided not to reject the application and initiated the investigation. Public notification of the initiation was made on 6 November 2014 in *The Australian* newspaper and in Anti-Dumping Notice (ADN) 2014/118.

The Commission established an investigation period of 1 July 2013 to 30 June 2014 for the purpose of assessing dumping. Injury analysis commenced from 1 July 2010 for the purpose of analysing the economic condition of the Australian industry.

2.1.1 Previous investigation

In *Consideration Report 271* the Commission noted that a previous investigation into the alleged dumping of certain electric cables exported to Australia from China had been initiated on 9 September 2011, but was eventually terminated on 6 February 2012. The Australian Customs and Border Protection Service (ACBPS), as the then investigating authority, found that there had been no dumping of electric cables during the investigation period (1 July 2010 to 30 June 2011).⁷

The goods under consideration in the present case are a specific subset of the goods that were previously examined.

⁷ Case No.178 refers: www.adcommission.gov.au/cases/Pages/ArchivedCases/epr178.aspx.

2.2 Conduct of investigation

2.2.1 Identification of interested parties

Following initiation, the Commission reviewed the ACBPS import database to identify potential importers of the goods under consideration. The particular cable being investigated (as described in ADN No. 2014/118) is only a subset of all imports under the relevant tariff classification code; the import database did not provide enough detailed information to enable the Commission to identify which import transactions were relevant to the investigation.

The Commission therefore identified a group of the largest importers⁸ of all goods under the tariff classification, and wrote to each of them to ask whether they specifically imported the subset of goods being investigated. The Commission subsequently asked the importers to identify the relevant exporter(s) of the goods under consideration, and invited them to participate in the investigation by completing the relevant importer or exporter questionnaires. Interested parties were invited to make submissions and / or respond to the relevant importer or exporter questionnaires by 16 December 2014.

2.2.2 Australian Industry

The Commission identified the three companies that, along with Olex, comprise the Australian industry:

- Advance Cables Pty Ltd (Advance);
- Australia Pacific Electric Cables Pty Ltd (APEC); and
- Prysmian Power Cables & Systems Australia Pty Ltd (Prysmian).

These companies subsequently provided quarterly sales and volume information covering the injury analysis period, provided in confidence to the then International Trade Remedies Adviser who collated the data to provide to the Commission.

The Commission conducted a verification visit to Olex's premises on 2-4 December 2014. The report of that visit is available on the public record.⁹

2.2.3 Importers

A response to the importer questionnaire was received from one company:

- Electra Cables (Aust) Pty Ltd (Electra).¹⁰

The Commission conducted a verification visit to Electra's premises on 5 February 2015. The report of that visit is available on the public record.¹¹

⁸ The identified importers each accounted for at least 0.5 per cent of the total import volume of products under the tariff classification code during the injury analysis period.

⁹ www.adcommission.gov.au/cases/Pages/CurrentCases/EPR271.aspx.

¹⁰ With the Commission's agreement, Electra provided an interim response to the Importer Questionnaire on 16 December 2014, comprising invoices for 15 entries in the ACBPS import database (selected by the Commission) and a detailed listing of sales to Electra's Australian customers. Electra subsequently provided a final response on 15 January 2015.

¹¹ www.adcommission.gov.au/cases/Pages/CurrentCases/EPR271.aspx.

2.2.4 Exporters

A response to the exporter questionnaire was received from five companies:

- Dongguan Minxing Cables Co. Ltd (Dongguan);
- Guilin International Wire & Cable Group Co. Ltd (Guilin International);
- Guilin Xianglong Wire & Cable Co. Ltd (Guilin Xianglong);
- Guilin Feilong Wire & Cable Co. Ltd (Guilin Feilong); and
- Ao Ning Electric Cables Co. Ltd (Ao Ning).

The Commission considers that these exporters have cooperated with the investigation.

Guilin International, Guilin Xianglong, Guilin Feilong and Ao Ning are related parties, and are collectively referred to as the Guilin Group in this report.

The Commission conducted a verification visit to Guilin International's premises on 19-20 and 23 March 2015 for the purpose of verifying the information provided by all members of the Guilin Group. The report of that visit is available on the public record.¹²

The Commission elected not to verify the information provided by Dongguan, as Dongguan's exports represent a small proportion of the Australian market.

2.3 Preliminary Affirmative Determination

On 15 January 2015 the Commissioner made a Preliminary Affirmative Determination (PAD) in relation to PVC flat electric cables. Securities were imposed against all exporters from China, with the exception of Dongguan.¹³

As a result of the investigation having now been terminated, any securities taken will be cancelled.

2.4 Statement of Essential Facts

The initiation notice advised that the SEF would be placed on the public record by 24 February 2015. The Commissioner sought additional time to complete the SEF owing to extensions of time allowed for various interested parties to supply information and the need to carefully verify that information for the purpose of calculating dumping margins.

An extension of time was subsequently granted by the Parliamentary Secretary in accordance with s.269ZHI, which resulted in a new deadline of 25 May 2015 for publication of the SEF on the public record (ADN 2015/24 refers).

The SEF was published on 25 May 2015.

In the SEF, the Commissioner proposed to terminate the investigation in respect of PVC flat electric cable exported from China. Interested parties were invited to make submissions to the Commission in response to the SEF within 20 days of it being placed on the public record. The Commission subsequently granted interested parties a further two days in which to make submissions.

¹² www.adcommission.gov.au/cases/Pages/CurrentCases/EPR271.aspx.

¹³ *Preliminary Affirmative Determination Report 271* and ADN 2015/09 refer, both of which are available on the public record.

The Commissioner is not obliged to have regard to a submission made in response to the SEF received after 17 June 2015, if to do so, in the Commissioner's opinion, would prevent the timely preparation of the final report.

2.5 Submissions received from interested parties

All of the submissions received by the Commission during the course of the investigation are listed in **Non-Confidential Appendix 1**. As all submissions were received by 17 June 2015, they have all been considered in the preparation of this report.

Non-confidential versions of all submissions can be found on the public record.

2.6 Relevant legislation

Division 2 of Part XVB of the Act sets out, among other matters, the procedures to be followed and the matters to be considered by the Commissioner in conducting investigations in relation to the goods covered by an application for the publication of a dumping duty notice.

Subsection 269TDA(1) provides:

If:

- (a) application is made for a dumping duty notice; and*
- (b) in an investigation, for the purposes of the application, of an exporter to Australia of goods the subject of the application, the Commissioner is satisfied that:
 - (i) there has been no dumping by the exporter of any of those goods; or*
 - (ii) there has been dumping by the exporter of some or all of those goods, but the dumping margin for the exporter, or each such dumping margin, worked out under section 269TACB, when expressed as a percentage of the export price or weighted average of export prices used to establish that dumping margin, is less than 2%;**

the Commissioner must terminate the investigation so far as it relates to the exporter.

Subsection 269TDA(13) provides:

If:

- (a) application is made for a dumping duty notice; and*
- (b) in an investigation, for the purposes of the application, of goods the subject of the application that have been, or may be, exported to Australia from a particular country of export, the Commissioner is satisfied that the injury, if any, to an Australian industry or an industry in a third country, or the hindrance, if any, to the establishment of an Australian industry, that has been, or may be, caused by that export is negligible;*

the Commissioner must terminate the investigation so far as it relates to the exporter.

3 THE GOODS AND LIKE GOODS

3.1 Finding

The Commissioner has found that locally produced PVC flat electric cable are like goods to the goods the subject of the application.

3.2 Legislative framework

Subsection 269TC(1) of the Act requires that the Commissioner must reject an application for a dumping duty notice if, inter alia, the Commissioner is not satisfied that there is, or is likely to be established, an Australian industry in respect of like goods. In making this assessment, the Commissioner must firstly determine that the goods produced by the Australian industry are “like” to the imported goods.

Subsection 269T(1) defines like goods as:

“Goods that are identical in all respects to the goods under consideration or that, although not alike in all respects to the goods under consideration, have characteristics closely resembling those of the goods under consideration”.

An Australian industry can apply for relief from injury caused by dumped imports even if the goods it produces are not identical to those imported. The industry must however, produce goods that are “like” to the imported goods.

Where the locally produced goods and the imported goods are not alike in all respects, the Commissioner assesses whether they have characteristics closely resembling each other against the following considerations:

- i. physical likeness;
- ii. commercial likeness;
- iii. functional likeness; and
- iv. production likeness.

3.3 The goods

The goods the subject of the application (the goods) are:

Flat, electric cables, comprising two copper conductor cores and an ‘earth’ (copper) core with a nominal conductor cross sectional area of between, and including, 2.5 mm² and 3 mm², insulated and sheathed with polyvinyl chloride (PVC) materials, and suitable for connection to mains electricity power installations at voltages exceeding 80 V but not exceeding 1000 V, and complying with Australian / New Zealand Standard AS/NZS 5000.2 (the Australian Standard), and whether or not fitted with connectors.

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The following products are excluded from the goods:

- single core cables, being cables with a single active core;
- “aerial cables” as defined by the Australian Standard;
- twin active flat cables, that is, flat cables comprising two active cores but no earth core;
- “circular cables” as defined by the Australian Standard;
- cables insulated and / or sheathed with non-PVC material, including but not limited to cross-linked polyethylene (XLPE) materials, including a combination of PVC and non-PVC material;
- cables comprising cores made of aluminium conductors; and
- “flexible cables (cords)” as defined by AS/NZS 3191 and/or AS/NZS 60227.

The application contains the following further information in relation to the goods the subject of the application:

The goods are commonly referred to as “building wire”, because of its use by the building and construction industry in domestic, commercial and industrial mains power supply low-voltage wiring installations. For the purpose of this definition, the term “flat cables” means cables where the conductor and earth cores are laid parallel in the same plane, as defined by the Australian Standard.

For the avoidance of doubt, reference to “two copper conductor cores” refers to the “phase core” and “neutral core”. The earth core (also comprising of copper) is additional to these two active cores.

3.4 Tariff classification

The goods are classified to the tariff subheading 8544.49.20 (statistical code 41) of Schedule 3 to the *Customs Tariff Act 1995*. The tariff description is:

“Insulated (including enamelled or anodised) wire, cable (including co-axial cable) and other insulated electric conductors, whether or not fitted with connectors; optical fibre cables, made up of individually sheathed fibres, whether or not assembled with electric conductors or fitted with connectors [...] for a voltage exceeding 80 V but not exceeding 1000 V [...] insulated with P.V.C. materials.”

The goods exported to Australia from China are subject to 4 per cent duty.

3.5 The Commission’s assessment

From the available information, the Commission has established that there are four Australian manufacturers of the like goods, being Olex, Prysmian, APEC and Advance (the Australian industry). Chapter 4 of this report discusses the Commission’s findings regarding the like goods manufactured by the Australian industry.

The description of the goods is very specific to a subset of cable products falling within the relevant tariff classification. The goods are also heavily regulated by the terms of the Australian Standard and the Australian Wiring Rules AS/NZS 3000:2007 (Australian Wiring Rules).

The Commission has assessed, based on the information currently before it, the following in relation to PVC flat electric cables.

3.5.1 Physical likeness

As a result of the requirements of the Australian Standard and the narrow tolerances allowed, the imported goods and the goods produced by the Australian industry are essentially identical in most physical respects. The Commission has observed at various stages of the investigation that the imported and locally produced PVC flat electric cable products are the same in respect of their physical construction (comprising three wound, PVC-insulated copper conductor cores of the same diameters, aligned on a flat plane with the earth core in the middle, sheathed with PVC), using the same grades of raw materials and satisfying the physical performance standards required by the Australian Standard.

The Commission has also observed that there are some minor physical differences:

- The imported product is a brighter white – Olex agreed with this observation, and explained that it is most likely because of the inclusion of a master batch of titanium oxide or equivalent in the PVC.
- The imported product has a different feel – Electra claimed that the product is “softer” and therefore easier to strip (that is, expose the conductor cores for an installation purpose), resulting in less effort and therefore less wear and tear on the hands of electricians. Olex agreed that the PVC used in the imported product feels different, and explained that it is most likely caused by a different mix of the material PVC components (such as a higher oil or plasticiser content). However, Olex disagreed that the imported good is easier to strip, demonstrating to the Commission that its PVC sheath tears (to expose the insulated conductor cores) more easily than the imported product.

The Commission notes that an electrician’s preference for either stripping or tearing the sheath may have an impact on their decision to purchase, but has obtained no evidence that might strengthen this view. The Commission finds that the physical differences between the imported and domestically produced PVC flat electric cables are otherwise insignificant.

3.5.2 Commercial likeness

The Commission has observed that the imported and domestically produced cables are directly competitive in the Australian market. Both are marketed and sold to the same wholesale customers; based on the sales information it has gathered, the Commission has observed that the products are in direct competition. The Commission has observed that the market has a strong preference for 100 m and 500 m reels of white cable, both of which are among the various models offered for sale by the importer and by the Australian industry. The Commission has found that price is the primary basis of competition, and notes that all suppliers in the market generate regular price lists for and have rebate and discount arrangements applicable to the same customer groups.

The Commission has concluded that the imported and domestically produced PVC flat electric cables are commercially interchangeable.

3.5.3 Functional likeness

The Commission has observed that both the imported and domestically produced cables are put to the same end use, being the wiring of domestic, commercial and light industrial properties to provide light and electricity. This is primarily a function of the Australian Wiring Rules, which mandate the use of products meeting the Australian Standard and sets out how those products are to be used.

The Commission has concluded that to be acceptable to the market, both the imported and domestically produced cables must function identically.

3.5.4 Production likeness

The Commission has observed the production of PVC flat electric cable at the Olex facility at Lilydale in Australia and at the Guilin Feilong facility in China. Although there were some differences in the respective production processes, the Commission has concluded that the key production steps are substantially identical.

3.5.5 Conclusion

The Commission is satisfied that the imported goods and the PVC flat electric cable manufactured by the Australian industry are physically, functionally and commercially interchangeable given the requirements of the Australian Standard, and are manufactured using similar processes. No parties to the investigation have suggested that the imported goods and the goods manufactured by the Australian industry are otherwise than alike.

Based on the above assessments, the Commissioner is satisfied that the Australian industry produces like goods to the goods the subject of the application, as defined in s.269T of the Act.

4 THE AUSTRALIAN INDUSTRY

4.1 Finding

The Commissioner has found there is an Australian industry consisting of Olex, Advance Cables, APEC and Prysmian that produces like goods in Australia.

4.2 Legislative framework

The Commissioner must be satisfied that the “like” goods are in fact produced in Australia. Subsection 269T(2) specifies that goods are not to be taken to have been produced in Australia unless the goods were wholly or partly manufactured in Australia. Subsection 269T(3) of the Act specifies that goods shall not be taken to have been partly manufactured in Australia unless at least one substantial process in the manufacture of the goods was carried out in Australia.

Subsection 269TB(6) provides that an application is taken to be supported by a sufficient part of the Australian industry if the persons who produce or manufacture like goods in Australia and who support the application:

- account for more than 50 per cent of the total production of like goods by that proportion of the Australian industry that has expressed either support for or opposition to the application; and
- account for not less than 25 per cent of the total production or manufacture of like goods in Australia.

4.3 The Australian industry

In addition to the information that was submitted by Olex in its application for a dumping duty notice and subsequently verified by the visit team, the Commission received information from Advance Cables, APEC and Prysmian regarding their respective volumes and net revenue for sales of the like goods for all quarters of the injury analysis period. The International Trade Remedies Adviser facilitated the collection and presentation of this data.

During the course of the investigation, Electra expressed a concern that some of the Australian industry sales may have been sourced from imported goods rather than domestic production. The Commission examined the ACBPS import database and found that although some members of the Australian industry imported cable products falling under the relevant tariff classification during the investigation period, the per unit price for these products strongly suggest that they are not the goods under consideration. The Commission has calculated that, even if all of these imports were the goods under consideration, they would only account for around 3 per cent of the total Australian industry sales volume in the investigation period.

The combined data indicates that Olex accounted for over 50 per cent of both the volume and value of all sales of PVC flat electric cable made by the Australian industry during the investigation period. During the verification visit the Commission confirmed that although production volume data is not retained, there are low stock levels held and there is therefore a very close correlation between production volume and sales volume.

The Commission is therefore satisfied that the requirements of s.269TB(6) have been satisfied.

4.4 Production process

Based on its observation of the manufacturing process at Olex's premises and of the goods being produced in China, the Commission is satisfied that the production process is mature and unlikely to vary significantly from factory to factory. The Commission is therefore satisfied that the manufacturing process of the Australian industry participants includes the following essential steps:

- Copper rod with a diameter of 8 mm is fed into wire drawing machines to produce smaller diameter wires. These wires may be drawn further to produce strands with the desired diameter.
- The strands are fed into a bunching machine, which bunches the strands together to form a conductor.
- The conductor then passes through an extruder, and the appropriate PVC insulation (e.g. red) covers the conductor to produce a cable. The cable passes through a series of water baths to cure the PVC and reduce the temperature before it is wound onto a drum.
- Drums carrying the various component cables are subsequently fed into a second extrusion process which combines the two active cores (red, black) and the earth core (green / yellow) in the appropriate configuration and adds the PVC sheathing.
- The printing required to comply with the Australian Standard (bearing the identity of the manufacturer, the year of manufacture, the designation of the insulation and the term "ELECTRIC CABLE" followed by the voltage rating) is added immediately afterwards, before the finished cable is again passed through a series of water baths and wound onto a drum.
- The cable is wound onto a spool of the appropriate length (e.g. 100 metres) and then packed onto pallets for dispatch.
- The product is measured and tested (during and after the production process), to ensure its dimensions and electrical performance will satisfy the requirements of the Australian Standard.

5 AUSTRALIAN MARKET

5.1 Finding

The Commissioner has found that the Australian market for PVC flat electric cables is supplied by the Australian industry and by imports, predominantly from China.

5.2 Background

PVC flat electric cable is used in fixed wiring applications in power and light circuits. These installations are at working voltages up to and including 450/750 V, and must be installed by a licenced electrician in accordance with the Australian Wiring Rules. The goods are used in residential and commercial building and construction, such as new home construction, renovations, units / apartments, commercial refurbishments, shopping centres and the like. The goods are also used in light industrial construction projects, such as providing wiring for the general power and lighting supply circuits of factories and warehouses.

PVC flat electric cable is also known as Tough Plastic Shield (TPS). The purpose of the PVC sheath (the TPS) is to protect the conductors as the cable is pulled through (mainly) timber walls in the course of house construction / renovation in Australia. The cable is relatively unique to the Australia and New Zealand markets as houses are largely constructed using timber frames (as opposed to Europe and North America where stone is more prevalent); it is also a reflection of the standard electricity transmission arrangements in the Australian market (240V at 30A).

5.2.1 Product substitution

There are several variations of PVC flat electric cable which are not the goods under consideration. Smaller versions (such as those with a 1 mm² or 1.5 mm² conductor cross section) are used in applications requiring a lower current (such as halogen or LED lights); larger versions (such as those with a 4 mm² conductor cross section) are used to provide power to ovens, air-conditioners and other fixed appliances requiring a higher current.

These smaller and larger cables have differing costs and performance outcomes. Smaller cables do not carry as much power as a larger cable without suffering an increase in resistance, which in turn generates heat and increases the risk of fire. Larger cables are able to carry more power, but because of the substantial increase in copper content are also much more expensive. Electricians have strong financial and regulatory incentives to use the most cost-effective cable for the particular wiring task at hand, which means that there is little - if any - substitution of the goods under consideration with other products.

5.3 Market structure

5.3.1 Suppliers

As noted in Chapter 4, there are currently four manufacturers of the like goods in Australia, of which Olex is the largest. All other PVC flat electric cable supplied to the market is imported, primarily by Electra but the information provided by Dongguan indicates that there may be other, smaller importers of the goods.

5.3.2 Wholesalers

Given the heavy involvement of electricians in the installation of the goods, the chief route to market is via wholesalers of electrical products. The sales listings provided by Olex and Electra indicate that there are several major wholesaling chains (comprising single companies or a collective buying group) and a number of smaller, independent wholesalers. Olex estimated that there are approximately 1600 electrical wholesaler stores in Australia.

5.3.3 Retail

Other routes to market are via hardware retailers (such as Bunnings, Masters, Mitre 10 and similar stores) or by selling directly to builders / contractors (which tend to be larger developers with their own employed electricians), but these types of sales represent a much smaller proportion of the market overall.

5.3.4 Export

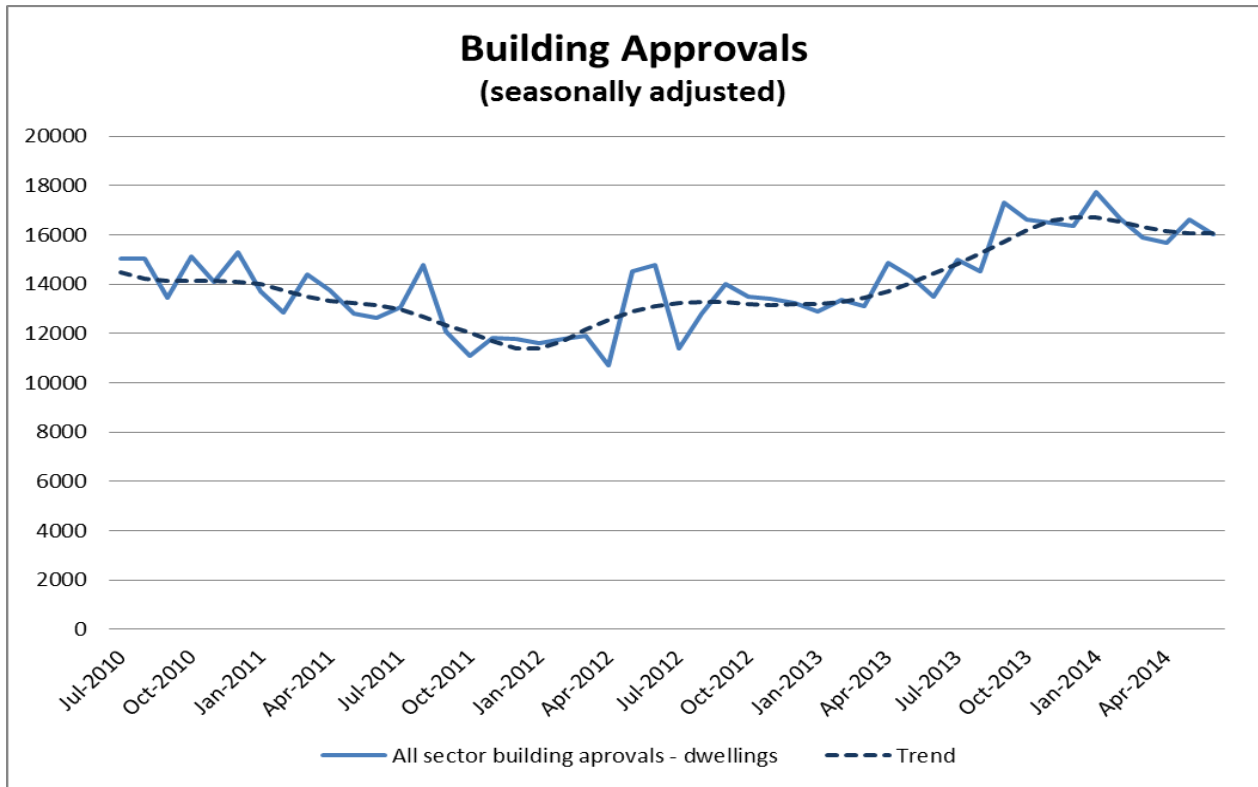
Although some cable is exported, it is in small volumes and primarily to New Zealand and the Pacific region. Some product can also find its way into unusual markets (such as Africa) where wiring regulations are not as restrictive as in Australia and Australian electricians are working.

5.4 Demand

Demand is primarily driven by new housing / commercial development and refurbishment of existing properties. In turn, this is driven by broader economic conditions (such as population growth, interest rates, house prices) and consumer confidence.

Olex advised that its forecasts are derived from intelligence obtained from its customers and the market more broadly, as well as its own research of demand for housing and construction (the major markets for the goods). Electra advised that it forecasts demand on the basis of the housing market and broader economic factors.

The Commission has obtained Australian Bureau of Statistics (ABS) data to track monthly dwelling approvals over the period 1 July 2010 to 30 June 2014. This information is presented in Graph 1, below.



Graph 1 – Building Approvals (Source: ABS 8731.0 Building Approvals, Australia)

The Commission notes the growth trend in building approvals since January 2012, but particularly during calendar year 2013. Olex advised that there is often a lag of several months between the date of a building approval and the subsequent purchase of PVC flat electric cable. The Commission considers that this pattern is apparent when comparing Graph 1 with the overall pattern of sales in Graph 2 (below). The Commission is satisfied that overall demand for PVC flat electric cable grew during the investigation period.

5.5 Market size and shares

As noted in *Consideration Report 271*, the Commission is cautious regarding the use of ACBPS import data for the goods under tariff classification 8544.49.20 (statistical code 41) for the purpose of estimating the size of the market. The tariff classification includes a much wider range of imported products than the goods under consideration.

Using the quarterly sales volumes and net values for the four Australian producers, the Commission has calculated that domestic production accounted for between 70 million and 80 million metres of PVC flat electric cable sold in each financial year from 2010/11 to 2013/14.

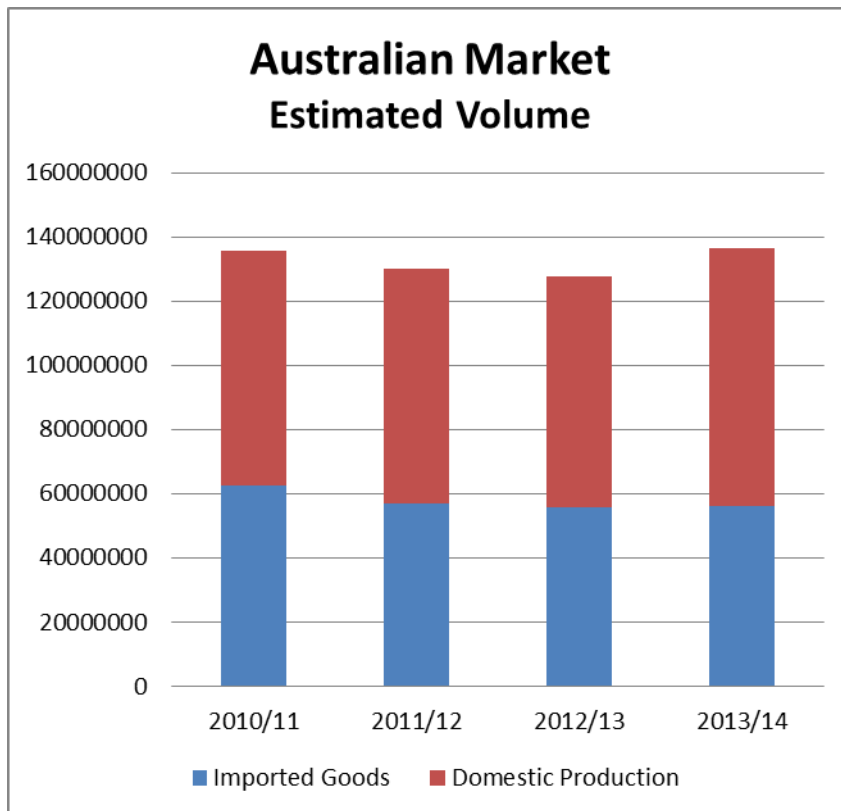
With respect to imports, the Commission has analysed Electra’s sales data for the investigation period (financial year 2013/14). In lieu of any further data regarding sales, the Commission has assumed that all of Dongguan’s exports to Australia were subsequently sold on the Australian market during the same period. The Commission has obtained no evidence of the volume of the goods that may have been sold by any other importer in the market.

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The Commission has also had regard to the verified information obtained in the previous investigation¹⁴ which indicated the volume of PVC flat electric cable exported to Australia by the Guilin Group in financial year 2010/11.

To estimate the historical trends in market shares over the entire injury analysis period, the Commission has used the average volume of the goods imported from China in the two years for which verified data is available (financial years 2010/11 and 2013/14), expressed as a proportion of Australian production, to estimate the share of the market represented by imported goods in the two intervening years (2011/12 and 2012/13). The Commission has no reliable information regarding the volume of goods which have been exported from other countries and sold in the Australian market, and therefore this analysis is based on China exports only.

The result is represented in Graph 2, below.



Graph 2 - Share of Australian Market, Estimated Volume

The analysis suggests that the market for PVC flat electric cable declined gradually between 2010/11 and 2012/13, before increasing in 2013/14 (aligning with the broad pattern of housing-driven demand represented in Graph 1).

The Commission has found that approximately 137 million metres of PVC flat electric cable was sold during 2013/14, generating net revenue of approximately \$99 million.

¹⁴ Paragraph 2.1.1 refers.

5.6 Submissions

5.6.1 Olex submission (#029 on Public Record)

In response to the importer visit report, Olex made a submission¹⁵ which rejected certain assertions made by Electra in that report regarding the operation of the market. Specifically, Olex rejects Electra's assertion that Olex is the price setter in the market, and rejects Electra's assertion that Olex will offer customers a cheaper price but be unable to supply the goods from stock upon winning the order, and that customers subsequently turn to Electra. Olex requests that these claims be struck from the record.

5.6.2 Commission's response

The Commission has deliberately written each visit report in such a way that the text will indicate what are claims or assertions that were made by the company that was visited and what are the findings that were actually made by the Commission. The Commission considers that both of the comments identified by Olex above are assertions made by Electra. No evidence was provided to support these assertions, but they were retained in the report because they reflect Electra's opinion of behaviours in the market.

The Australian industry visit report indicates that Olex considers Electra to be the lowest price competitor in the market.¹⁶ However, the Commission makes no finding in this regard. As noted below in Chapter 7, the Commission has found that there is vigorous competition between Olex and Electra on the basis of price, including price undercutting by both parties from time to time. There is no evidence before the Commission that Olex has been unable to supply the goods in a timely fashion when Olex's price has been preferred by the market.

In any event, the Commission has had no regard to the claims made by Electra in making the findings which are outlined in this report.

¹⁵ Document number 029 on the public record refers.

¹⁶ Document number 016 on the public record refers, at section 8.1.

6 DUMPING INVESTIGATION

6.1 Finding

The Commissioner has found that PVC flat electric cable exported to Australia in the investigation period was exported at prices that, when compared to the relevant normal values, resulted in the following dumping margins:

| Exporter / Manufacturer | Dumping Margin |
|--|-----------------------|
| Guilin International Wire & Cable Group Co. Ltd Guilin Feilong Wire & Cable Co. Ltd Guilin Xianglong Wire & Cable Co. Ltd Ao Ning Electric Cables Co. Ltd | 0.9 % |
| Dongguan Minxing Cables Co. Ltd | - 2.7 % |
| Uncooperative exporters ¹⁷ | 7.2 % |

6.2 Legislative framework

Dumping occurs when a product from one country is exported to another country at a price less than its normal value. Under the Act, the export price and normal value of goods are determined under s.269TAB and s.269TAC of respectively.

Usually, the normal value reflects the price paid for like goods in the domestic market of the country of export. However, sometimes the goods are not sold in that market, or the price paid in that market cannot, for some reason, be used. Section 269TAC gives several methods by which normal values may be obtained, with the choice of methods being determined by the circumstances of the case.

Subsection 269TAC(1) provides that, subject to certain conditions, the normal value is the price at which like goods are sold in the domestic market of the country of export. Subsection 269TAC(2)(c) provides for the normal value to be constructed from the cost to make and sell the goods in the country of export, and s.269TAC(2)(d) provides for the normal value to be based on the price of exports from the country of export to a third country.

Dumping margins are determined under s.269TACB.

6.3 Determination of dumping margins for cooperating exporters

As noted previously, the Commission received responses to the Exporter Questionnaire from several exporters. The Commission notes that these exporters fully cooperated with the investigation.

¹⁷ The Commission is treating all other exporters of PVC flat electric cable from China in the investigation period as 'uncooperative exporters', as explained at section 6.4 of this report.

6.3.1 Guilin International, Guilin Feilong, Guilin Xianglong and Ao Ning

Treatment of the Guilin Group as a single entity for investigation purposes

As was noted in the Exporter Visit Report, while each company in the Guilin Group is a separate legal entity, due to the close structural and commercial relationships between the individual companies the Commission has considered the companies as a single exporter for the purpose of calculating a dumping margin.

Where entities are 'collapsed' the actions of one member of the entity are taken to represent the actions of the whole. The issue of considering multiple entities as a single entity for the purpose of calculating dumping margins was considered by a World Trade Organization (WTO) dispute settlement panel dealing with the case of *Korea – Anti-Dumping Duties on Imports of Certain Paper from Indonesia*.¹⁸

In that WTO dispute settlement panel, the panel stated:

“In our view, in order to properly treat multiple companies as a single exporter or producer in the context of its dumping determinations in an investigation, the [Investigating Authority] has to determine that these companies are in a relationship close enough to support that treatment.”

It also stated that entities could be treated as a single entity where “the structural and commercial relationship between the companies in question is sufficiently close to be considered as a single exporter or producer.” The panel considered that common management and ownership are indications of a close legal and commercial relationship and such companies “could harmonize their commercial activities to fulfil common corporate objectives.”

Consistent with this approach, the *Dumping and Subsidy Manual*¹⁹ outlines circumstances in which related producers and selling entities may be treated as one entity.

The Commission considered the following matters to be relevant in treating the companies as a single exporter:

- the common ownership links between the companies;
- orders from the Australian customers may be filled by any of the four companies in the Guilin Group. In addition, intercompany transfers occur to allow any one company to fulfil an order. As any company in the Guilin Group has the capacity to export the goods to Australia, the determination of different margins for the companies would be ineffective;
- the export price is the same or similar for each of the companies;
- the goods are delivered by Guilin International on behalf of the Guilin Group; and
- staff from each of the companies attended the visit and information was made available in relation to activities undertaken by all members of the Guilin Group at the visit.

¹⁸ WT/DS312/R.

¹⁹ www.adcommission.gov.au/accessadsystem/Documents/DumpingandSubsidyManual-December2013_001.pdf

PUBLIC RECORD

Although separate questionnaire responses were submitted by each of the four companies, the closeness of the relationship between the four companies is such that the Commission considers it appropriate to treat the companies as a single exporter.

Arms length

Section 269TAA outlines the circumstances in which the price paid or payable shall not be treated as being at arms length. These are where:

- there is any consideration payable for or in respect of the goods other than price;
- the price appears to be influenced by a commercial or other relationship between the buyer, or an associate of the buyer, and the seller, or an associate of the seller; or
- in the opinion of the Parliamentary Secretary, the buyer, or an associate of the buyer, will, directly or indirectly, be reimbursed, be compensated or otherwise receive a benefit for, or in respect of, the whole or any part of the price.

Further, where an importer subsequently sells the goods at a loss, the Parliamentary Secretary may treat those circumstances as indicating that the importer will be reimbursed, compensated or otherwise receive a benefit. If the goods are sold at a loss, the Parliamentary Secretary must have regard to the likelihood that the importer will recover both the price paid to the exporter and the costs necessarily incurred in the importation and sale of the goods within a reasonable time.

The Commission notes that both of the verification reports for Electra and the Guilin Group express doubts regarding the nature of the relationship between the parties and whether the prices paid by Electra should be treated as being at arms length from the Guilin Group. The original concern was raised after the Commission found that the selected import transactions were sold at a small loss by Electra. The Commission considered that the terms of s.269TAA(2) were therefore satisfied, providing the Parliamentary Secretary with the discretion to treat those sales at a loss as indicating that the importer would be reimbursed, compensated or otherwise receive a benefit for, or in respect of, the whole or any part of the price.

The Commission's further analysis in the importer visit report indicates that it was unlikely that Electra would be able to recover within a reasonable time both the price paid and the costs incurred in the same importation of the goods. The exporter visit report found that, in the absence of evidence to the contrary, the sale price, pricing policy and the close relationship between the parties supported a finding that the transactions involving exportations of PVC flat electric cables to Electra were not at arms length.

In accordance with s.269TAA(1)(c), the Commission therefore finds that the prices paid by Electra were not at arms length.

6.3.2 Olex submissions and Commission response

In response to the importer visit report, exporter visit report and SEF, Olex has made submissions which focus heavily on the various factors which are relevant to the dumping margin calculation applicable to the Guilin Group.²⁰ The Commission has summarised the matters raised by Olex in its various submissions and addresses them in turn, below.

²⁰ Documents 029, 030 and 031 on the public record.

Export Price – Electra’s shipping and freight costs

Olex argues that the Commission’s approach to calculating Electra’s average shipping and average freight costs may distort the dumping margin calculation in Guilin’s favour. Olex argues that the Commission ought to instead rely on shipping and freight cost data provided by Olex.

The Commission notes that the actual shipping costs incurred by Electra were verified during the importer visit as outlined in the relevant report. Each of Electra’s shipments included both the goods and other cable types. There were fluctuations in the cable types which comprised each shipment and no shipment was exclusively comprised of the goods. Electra’s accounting system does not enable the tracing of goods from particular import transactions through to sale. Given these circumstances, the shipping costs were allocated to the goods on the basis of the value of the goods represented in each import transaction, expressed as a percentage. The Commission considers this to be a reasonable methodology to apply in the circumstances.

With regard to domestic freight costs, the Olex submission does not identify a specific flaw in the Commission’s approach. The Commission notes that Electra’s accounting systems do not provide actual delivery costs incurred by transaction and therefore a methodology must be used to estimate the freight costs applicable to the goods. The Commission considers that the methodology presented by Electra was reasonable, and although the Commission adjusted some of the calculations (for the reasons already explained in the visit report) the Commission is satisfied that the freight calculation is representative of Electra’s actual costs. The Commission considers that, given the information available to it, there is no practical basis on which it could reasonably undertake alternative calculation requested by Olex (that is, to apply benchmark cost rates by region for each customer transaction).

Export Price – Accuracy of rebates and calculation of net prices

Olex argues that the Commission’s methodology for calculating rebates (based on Electra’s “total value of all cable sales”) has a high risk of distorting the rebates actually paid. Olex argues that the Commission needs to verify the net prices actually paid by each customer, incorporating all specific rebates and discounts, and identify the volume of cable purchased by each customer.

As the Commission noted in the visit report, Electra’s accounting system does not record the value of rebates and discounts that were paid at the time of the transaction. The Commission subsequently examined all of the rebates and discounts which are payable by Electra to its customers under the terms of the supplier agreements that were in place at the time of the investigation period. The Commission applied the full rebate and discount applicable to each customer to each transaction in Electra’s sales listing to calculate the net prices retrospectively, including any volume discounts. The Commission is satisfied that its methodology is reasonable, and the price undercutting analysis (referred to in Chapter 7), which shows very close price competition between the net prices obtained by Olex and Electra for sales to common customers, provides further confidence as to the accuracy of the analysis.

Export Price – Redactions in the exporter visit report cloud the methodology

Olex argues that the level of redactions in the exporter visit report make it difficult to determine how the deductive export price was arrived at and whether the methodology used by the Commission aligns with the requirements of s.269TAB(1)(b).

For the sake of clarity, the Commission calculated the deductive export price by:

- establishing the net price (i.e. exclusive of rebates and discounts) achieved for each sales transaction by Electra to unrelated third parties;
- deducting from each transaction a positive amount which corresponded to the following items:
 - profit (based on information in the previous investigation);
 - selling, general and administrative costs (as verified);
 - domestic freight (as verified);
 - overseas freight (as verified);
 - combined importation costs (as verified);
 - credit adjustment (reflecting the applicable payment terms);
 - import tariff (4 per cent); and
- deducting an amount which reflected the terms of the confidential sales arrangement that was referred to in the exporter visit report.

Applying all of these deductions generated an export price at the FOB level, which can be compared to the constructed normal value at the same delivery terms for the purpose of calculating a dumping margin.

In reviewing the components of the deductive export price, the Commission identified an error in the calculation used at the time of the SEF. This was a result of calculating the domestic freight costs (expressed as a proportion of net sales) separately to the selling, general and administrative costs, and these domestic freight costs were mistakenly excluded from the calculation. This error has now been rectified, increasing the dumping margin.

Normal Value – Treatment of the Guilin Group as a single entity and general comments on the verification methodology

Olex argues that the various component costs of the normal value have been distorted by the Commission's treatment of the Guilin Group companies as a single entity. Olex cites various examples in the reports which refer to averages, arguing that the Commission has not verified the actual costs applicable to each company, and that therefore the dumping margin has been distorted in the Guilin Group's favour.

The Commission considers that there may be some confusion between the descriptions of the Guilin Group's accounting methodologies and the verification process that was undertaken. Further, there were two steps in the Commission's process: the first was to verify the accuracy of the material and data presented by the Guilin Group (which was achieved), and the second was to use that data to calculate an appropriate normal value.

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With regard to the first step, the Commission verified the data pertaining to Guilin International in March 2014 and was satisfied as to its accuracy. For example, it is true that the Guilin Group estimated a value for copper in its response to the exporter questionnaires; however, the Guilin Group explained (as was noted in the visit report) that it did so only for the purpose of completing the questionnaires. In any event, the Commission did not rely on the estimate, instead verifying the actual copper and other material costs recorded in Guilin International's accounts.

As all four companies use the same accounting methodology and the audited accounts were in accordance with the generally accepted accounting principles applicable to China, the accuracy of the sampled data therefore provided a high level of confidence that the data for the other three companies would also be accurate. The actual cost of copper incurred by the Guilin Group – not the estimate – was then used in the constructed normal value.

The Commission's decision to treat the Guilin Group companies as a single entity is consistent with past practice and the WTO jurisprudence. Although the Commission could have used the verified data to calculate a dumping margin for each member of the Guilin Group, doing so would have no practical effect because all future exports by the Guilin Group might be exported by the company with the lowest dumping margin. In any event, the Commission observed that the variations in the cost to make and sell the goods between the member companies of the Guilin Group were not significant.

Normal Value – Cost of copper (including scrap)

Olex argues that the Commission has erred in its calculation of the true cost of copper, citing its own data with regard to the cost of the raw material and its conversion from cathode to rod. Olex also expresses concern regarding the treatment of copper scrap and whether the Commission verified this item appropriately.

The Commission recognises that copper is the highest cost raw material relevant to the goods and therefore the accuracy of the copper cost represents a high risk in the context of the dumping margin calculation. The Commission has observed throughout the investigation that the volume of copper used in the actual production of the goods and the accounting treatment of copper and copper waste differs between Olex and the Guilin Group. The Commission's task has been to verify whether the costs reported by the parties are accurate and reasonably reflect the actual cost.

Although not detailed in the visit reports or the SEF, the evidence presented to the Commission by the various parties throughout the investigation indicates that copper is traded on exchanges like the London Metals Exchange (LME) and the Shanghai Futures Exchange (SHFE). As noted in the exporter visit report, the Guilin Group purchases copper at prices based on the SHFE. Copper is most commonly traded in the form of cathode, but cable manufacturers require the conversion of cathode into 8 mm rod (which is suitable for further drawing into wires). The cost of converting the cathode into rod, the copper supplier's margin and the cost of freight from the copper supplier to the customer is known as the copper premium.

PUBLIC RECORD

As explained by Olex during the industry verification visit, the price that Olex pays for copper is based on the prevailing LME price plus the premium. Suppliers that trade on the same exchange will always offer the same exchange price for cathode, but the premium offered by each supplier will be different. Olex presented evidence of the differing premiums that it pays to its various suppliers (a copy of which is included at **Confidential Appendix 2**). Both Olex and the Guilin Group indicated that copper purchasing decisions are largely based on forecast or known production volume requirements, the availability of copper, delivery timeframes and the overall cost. Olex indicated that it also engages in hedging activities to manage its copper costs.²¹

Given these parameters, the Commission has considered whether the evidence before it supports Olex's submission that the cost of copper has been underestimated in the calculation of the normal value. The Commission examined the evidence presented to it regarding the cost of copper cathode in China (based on SHFE prices) and the typical premium charged by Chinese suppliers as shown in **Confidential Appendix 2**, and compared this to the actual prices paid by the Guilin Group for 8mm copper rod from unrelated third parties. The analysis indicates that the Guilin Group has paid a price which is commensurate with the contemporaneous SHFE price plus copper premium. This analysis is included at **Confidential Appendix 3**.

In terms of copper scrap, the Commission found at verification that the Guilin Group accounted for scrap using a clear accounting methodology, that its treatment is reasonable and consistent and that the cost of scrap attributed to the goods under consideration is accurate.

The Commission has used the verification process to satisfy itself that the prices actually paid by the Guilin Group for copper are accurate and the cost of scrap has been accounted for and is accurate, and that these costs have been correctly allocated in the Guilin Group's accounts. Although the Commission has had regard to Olex's submissions on copper, the weight of the evidence leads the Commission to conclude that the verified data is the most relevant and reliable for the purpose of calculating the normal value.

Normal Value – Cost of PVC

Olex argues that the Commission has erred in its calculation of the true cost of PVC, citing its own data with regard to the cost of the raw material. As evidence, Olex submitted quotes for PVC which were obtained in the period from January 2015 and expressing disbelief that the Guilin Group could be obtaining a cheaper material.

The Commission recognises that PVC is the second highest cost raw material relevant to the goods and therefore the accuracy of the PVC cost represents a high risk in the context of the dumping margin calculation. The Commission has observed throughout the investigation that the volume of PVC used in the actual production of the goods and the accounting treatment of PVC differs between Olex and the Guilin Group. The Commission's task has been to verify whether the costs reported by the parties are accurate and reasonably reflect the actual cost.

²¹ See Olex visit report, at section 6.3.2.

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The Commission notes that the evidence submitted by Olex in its submission is not contemporaneous with the investigation period. The Commission also notes that the submission provides no evidence which would cause the Commission to doubt the actual PVC prices paid by the Guilin Group during the investigation period. Nevertheless, the Commission has sought independent third party information regarding PVC prices paid in China during the investigation period.

This information, provided as spot prices for south China, was compared to the prices actually paid by the Guilin Group for known grades of PVC that are used in the manufacture of the goods. This analysis is included at **Confidential Appendix 4**. The Commission recognises that spot pricing is not necessarily indicative of the actual cost of obtaining a regular, consistent supply of PVC in the grades required to meet the Australian Standard for the goods under consideration. However, the trends and relationships between the spot prices and the prices actually paid by the Guilin Group maintains the Commission's confidence in the verified data.

The Commission has used the verification process to satisfy itself that the prices actually paid by the Guilin Group for PVC are accurate and have been accounted for. Although the Commission has had regard to Olex's submissions on PVC, the weight of the evidence leads the Commission to conclude that the verified data is the most relevant and reliable for the purpose of calculating the normal value.

Normal Value – Profit

Olex argues that the Commission has erred in law by referring to Regulation 181A of the *Customs Regulations 1926* and the associated principles outlined in the *Dumping and Subsidy Manual* (which refers to Regulation 181A), which has been superseded by Regulation 45 of the *Customs (International Obligations) Regulation 2015*. Olex further argues that the Commission has erred by applying a profit of 0 per cent in the constructed normal value, which is not in accordance with the "any other reasonable method" provided for under Regulation 45(3)(c). Olex considers that applying a 0 per cent profit effectively "institutionalises damages caused to Australian industry by condemning local manufacturers to the same zero profit outcome", and therefore to do so is unreasonable and not the intent of the anti-dumping system. The Commission notes that Olex's submission does not propose a specific alternative methodology which it considers to be reasonable.

The Commission notes that the exporter visit report specifically referred to Regulation 45 as the basis for determining the appropriate amount of profit to incorporate into the calculation of normal value. Although the *Dumping and Subsidy Manual* has not been updated to refer to the current regulations, the terms of Regulation 45 and the former Regulation 181A are essentially identical. The Commission therefore considers that the principles enunciated in the *Dumping and Subsidy Manual* remain a relevant consideration.

The Commission notes that Regulation 45(2) provides "*The Minister must, if reasonably practicable, work out the amount by using data relating to the production and sale of like goods by the exporter or producer of the goods in the ordinary course of trade*". As the Commission has found that there are no sales of the like goods in the ordinary course of trade, this primary profit regulation cannot apply.

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Regulation 45(3) then directs the Minister to consider working out an amount for profit having regard to one of three methodologies. There is no hierarchy in terms of which methodology must be used. In practice, “the Commission normally seeks profit information using the method described for ... [Regulation 45(3)(a)] because it relates to the exporter being investigated and therefore is more likely to yield the required data.”²²

Regulation 45(3)(a) provides that the Minister can use the actual amounts of profit realised by the exporter from the sale of the same general category of goods in the exporter’s domestic market. The Commission found that sales of the same general category of goods by the Guilin Group did not show any profit during the investigation period.

Regulation 45(3)(b) provides that the Minister may use the weighted average of the actual profit realised by other exporters on sales of like goods in the domestic market of the country of export. However, Dongguan did not sell any like goods in the domestic market. In any event, the Commission notes that the *Dumping and Subsidy Manual* reflects the findings of the WTO Appellate Body in the *Bed Linen* case regarding Article 2.2.2(ii) of the *Anti-Dumping Agreement* (which Regulation 45(3)(b) incorporates), which held that the Article does not permit calculation of that ‘weighted average’ using data relating to only one exporter.²³

The Commission also considered Regulation 45(3)(c), which provides for “any other reasonable method and having regard to all relevant information”. The Commission notes a limitation is imposed by Regulation 45(4): any amount of profit determined using any other reasonable method must not exceed the profit normally realised by the other exporters on sales of the same general category of goods in the domestic market.

The Commission considers that the intent of the legislation is that a positive amount for profit would normally apply when constructing a normal value. However, the amount determined must be reasonable, based on the evidence. An appropriate construction of the normal value therefore requires that the amount of profit included is a fair reflection of what the exporter *would* have achieved on sales of the goods if they were sold on their domestic market. The assessment must inevitably *infer* a profit for the exporter after having due regard for the weight of *all* the evidence. This is consistent with the Commission’s reasons for normally using the approach set down in Regulation 45(3)(a), outlined above, where 45(2) cannot be used.

The Commission observes that Dongguan’s response provides sufficient information to determine a small amount of profit achieved on sales of the same general category of goods in the domestic market.²⁴ This means there is information available to determine what cap should apply, and any proposed positive amount of profit would need to be limited by the cap.²⁵

²² *Dumping and Subsidy Manual*, page 47.

²³ *EC – Bed Linen* (DS141)

²⁴ Although the Commission notes the limitations of the methodology it has used – refer to footnote 27.

²⁵ *Dumping and Subsidy Manual*, page 48.

PUBLIC RECORD

However, the Commission has observed that the Guilin Group and Dongguan achieved differing profit outcomes during the investigation period. The profit achieved is a function of the commercial circumstances of each company and of the likely different product mixes in the same general category of goods. In the absence of corroborating evidence, the Commission considers that the application of the profit outcome of one company to the other, without having regard to the differences in the circumstances in which those profits were made, is unlikely to produce an outcome which is reasonable.

The Commission therefore considers that the most relevant and reliable measure of profit in the circumstances of this case is one based on the actual amounts realised by the Guilin Group from the sale of the same general category of goods in the domestic market of China – that rate being 0 per cent, consistent with Regulation 45(3)(a). The Commission considers that the information on which it would have to rely to determine an amount of profit under Regulation 45(3)(c) is not as persuasive.

The above approach to establish a profit for the Guilin Group is also consistent with the approach taken for the other cooperating exporter, Dongguan.

Normal Value – Adjustments

Olex argues that the Commission has erred in the adjustments contained in the constructed normal value. In particular, Olex questions the adjustments for domestic inland transport (and the degree to which these costs were verified) and inventory carrying costs. Olex considers that the constructed normal value has therefore been underestimated.

The Commission considers that there may be some confusion about the purpose of the adjustments. The Commission must compare the constructed normal value and the deductive export price at the same delivery terms in order to calculate a dumping margin. The Commission typically compares the export price and normal value at FOB, but the relevant delivery terms will be guided by the circumstances of the case and the information available. In this investigation, the Commission considered that it had sufficient information to compare export prices and normal values at FOB.

Having reached that conclusion and calculated a deductive export price at FOB, the Commission must calculate a constructed normal value as if the goods were sold on the China domestic market, then make adjustments to that normal value to move the delivery terms to FOB.

The constructed normal value therefore comprises the cost to make the goods, the selling, general and administrative costs applicable to domestic sales of like goods and an amount for profit (in this instance, zero). From this point, the Commission *deducts* the costs of domestic inland transport and domestic inventory carrying costs (which are contained within the selling, general and administrative costs calculation already used) and *adds* the costs of the export inland transport, export handling charges and export inventory carrying costs. The net effect is to generate a constructed normal value at FOB.

In terms of inventory carrying costs, the Commission applied its usual approach to determining an amount of inventory days for products destined for the domestic market and for the export market, and calculated the respective opportunity costs of carrying the differing levels of inventory based on the prevailing annual interest rate in China. The Commission considers that its methodology is clear from the terms of the exporter visit report.

PUBLIC RECORD

PUBLIC RECORD

In reviewing its methodology in response to the submissions made, the Commission observed that the adjustment for freight costs at the time of the SEF was based on amounts for the verified costs for domestic and export inland freight expenses allocated on the basis of sales *volume*. The Commission also observed that all freight costs in the deductive export price calculations were allocated on the basis of the total sales *value* of the goods. The Commission therefore considered it appropriate to amend its calculations for the Guilin Group's freight costs so that they are by reference to sales value in order to align the methodologies. These revised calculations are incorporated into **Confidential Appendix 5**, and resulted in an increase to the dumping margin.

The Commission has used the verification process to satisfy itself that the costs recorded in the adjustments are accurate and the methodology used is consistent with the Commission's usual practice.

6.3.3 Commission's conclusion

As noted above, the Commission has adjusted the export price calculation to include the domestic freight costs which were previously excluded. The Commission has also adjusted the normal value calculation to reflect the revised approach to calculating the inland export and domestic freight costs. However, the Commission does not consider that the submissions and supporting data presented by Olex in response to the importer visit report, exporter visit report and SEF are a sufficient basis for any other changes to the Commission's assessments of export price, normal value and dumping margin for the Guilin Group in this investigation.

6.3.4 Calculation of dumping margin for the Guilin Group

Export price

The Commission considers that in respect of export sales to Australia during the investigation period:

- the goods have been exported to Australia otherwise than by the importer;
- the goods have been purchased by the importer from the exporter;
- the purchases of the goods:
 - by Electra - were not arms length transactions;
 - by all other importers - were arms length transactions; and
- the goods were subsequently sold by the importer in the condition in which they were imported to a person who is not an associate of the importer.

For the non-arms length sales, export prices have been established under s.269TAB(1)(b) of the Act, being the price at which the goods were sold by the importer less the prescribed deductions as set out in s.269TAB(2). A small proportion of sales of goods which were not in the condition in which they were imported were excluded from the calculation.

For most of the arms length sales, export prices have been established under s.269TAB(1)(a), being the price paid for the goods exclusive of any post-exportation costs. For a small volume of arms length sales subject to a confidential commercial arrangement, export prices have been established under s.269TAB(1)(c), being a price established having regard to all the circumstances of the exportation.

Normal value

The Commission found there to be no sales of like goods on the domestic market. The Commission therefore calculated the normal value of PVC flat electric cable in accordance with s.269TAC(2)(c) of the Act using:

- the cost to make the exported good;
- the selling, general and administrative costs that would be incurred on the assumption that the exported good is sold on the domestic market; and
- an amount for profit on the assumption that the exported good is sold on the domestic market.

The Commission made adjustments to account for differences between export and domestic inland transport and inventory carrying costs in accordance with s.269TAC(9) to ensure that the normal value is properly comparable with the export price of the goods.

Dumping margin for the Guilin Group

The Commission has calculated a dumping margin in accordance with s.269TACB(2)(a) of the Act, by comparing the weighted average of export prices over the whole of the investigation period with the weighted average of corresponding normal values over the whole of that period.

The dumping margin for the Guilin Group is 0.9 per cent.

The Commission's calculations of export prices, normal values and the dumping margin for the Guilin Group are at **Confidential Appendices 5 to 7**.

6.3.5 Dongguan

As the goods exported by Dongguan represent a small proportion of the Australian market for PVC flat electric cable, the Commission elected not to verify the data provided in Dongguan's response to the exporter questionnaire. However, the Commission has observed that Dongguan's material and other manufacturing costs are similar to the verified costs borne by the Guilin Group.

As a result, the Commission is satisfied that the data presented by Dongguan is likely to be representative of Dongguan's actual cost to make and sell and it is therefore reasonable to rely upon it for the purposes of calculating a dumping margin.

Export price

In its response to the exporter questionnaire, Dongguan has provided the Commission with details for all export transactions of the goods, which includes details of the prices paid by the Australian importers in RMB.

The Commission has established an export price pursuant to s.269TAB(3) as there is insufficient information available to calculate an export price under s.269TAB(1). The export price has been determined having regard to all relevant information. Specifically, the Commission has used the price paid by the importer exclusive of any identifiable post-exportation charges.

Normal value

Dongguan has provided the Commission with detailed cost to make and sell information. Dongguan has also provided a spreadsheet which lists all purchases of copper and PVC relevant to the manufacture of the goods during the investigation period. Dongguan's response to the exporter questionnaire indicated that there were no sales of like goods into the Chinese domestic market.

The Commission therefore constructed a normal value for Dongguan in accordance with the methodology outlined in s.269TAC(2)(c), using Dongguan's actual cost to make the exported goods in the investigation period. The Commission added an amount which represented Dongguan's average selling, general and administrative costs for domestic sales. The Commission also added an amount for profit which was based on Dongguan's sales of all products (excluding the goods) during the investigation period.²⁶

The Commission examined whether it had sufficient information to further adjust the normal value, but was not satisfied that the Dongguan information was sufficiently detailed to do so. Accordingly, the Commission has made no further adjustments.

Dumping margin

The Commission has calculated a dumping margin in accordance with s.269TACB(2)(a) of the Act, by comparing the weighted average of export prices over the whole of the investigation period with the weighted average of corresponding normal values over the whole of that period.

The dumping margin for Dongguan is -2.7 per cent.

The Commission's calculations of export prices, normal values and dumping margins are at **Confidential Appendix 8**.

6.4 Determination of dumping margins for uncooperative exporters

The Commission is treating all exporters of PVC flat electric cable from China in the investigation period other than the Guilin Group and Dongguan as 'uncooperative exporters', as defined in terms of s.269T(1), as they did not provide information considered relevant to the investigation within a reasonable period of time.

Export price

The Commission has therefore determined an export price pursuant to s.269TAB(3) after having regard to all relevant information. Specifically, the Commission has used the lowest weighted average export price of those that were established for the Guilin Group and Dongguan.

²⁶ Dongguan's domestic sales of all cable types represented a high proportion of all company sales. In the absence of further information and notwithstanding that the calculation will contain a proportion of the profit realised on a much broader range of cable products, the Commission considers that this approach generates an amount for profit which is indicative of Dongguan's profit on sales of the same general category of goods sold in the domestic market (as required by Regulation 45(3)(a)).

Normal value

The Commission has therefore determined normal value pursuant to s.269TAC(6) after having regard to all relevant information. Specifically, the Commission has used the highest weighted average normal value of those that were established for the Guilin Group and Dongguan.

Dumping margin

The Commission has calculated a dumping margin in accordance with s.269TACB(2)(a) of the Act, by comparing the weighted average of export prices over the investigation period to the weighted average of corresponding normal values over the same period.

The dumping margin for the uncooperative exporters is 7.2 per cent. The Commission's calculation of the dumping margin is at **Confidential Appendix 9**.

6.5 Volume of dumped exports

Pursuant to s.269TDA(3) of the Act, the Commissioner must terminate the investigation, in so far as it relates to the country, if satisfied that the total volume of goods that are dumped is a negligible volume. Subsection 269TDA(4) defines a negligible volume as less than three per cent of the total volume of goods imported into Australia over a reasonable examination period. The Commission considers that the investigation period is suitable for this purpose.

As noted above at 5.5, the ACBPS import database is not suitable to accurately calculate the volume of the goods that were imported into Australia during the investigation period because the relevant tariff classification covers a broader range of products. Therefore, for the purpose of this assessment, the Commission has assumed that:

- the proportion of electric cable products exported from China in the investigation period by the Guilin Group and by Dongguan under the relevant tariff classification that are the goods subject of the investigation can be measured; and
- the proportion will be the same for all other exporters.

The Commission has applied that proportion to the volume of goods exported to Australia from China in the investigation period under the relevant tariff classification for all exporters other than the Guilin Group and Dongguan to generate a reasonable estimate of the volume of dumped goods.

Using this methodology, the Commission is satisfied that when expressed as a percentage of the total imported volume of the goods, the volume of dumped goods from China was greater than three per cent of the total import volume and is therefore not negligible.

Accordingly, the Commission has considered whether the goods exported by the uncooperative exporters has caused material injury to the Australian industry (see Chapter 8, below).

7 ECONOMIC CONDITION OF THE INDUSTRY

7.1 Finding

The Commissioner has found that that the Australian industry producing like goods has experienced price depression, price suppression, reduced profits and reduced profitability during the investigation period.

7.2 Injury claims

In its application Olex claimed that the Australian industry has been injured through:

- price suppression;
- price depression;
- lost sales volume;
- loss of market share;
- reduced capacity utilisation;
- declining employment;
- reduced profit; and
- reduced profitability.

7.3 Commencement of injury, and analysis period

The Commission established an injury analysis period commencing 1 July 2010.

Olex claimed that dumped goods had been present in the market prior to this date, but that injury had been particularly felt since the quarter ending 31 March 2011.

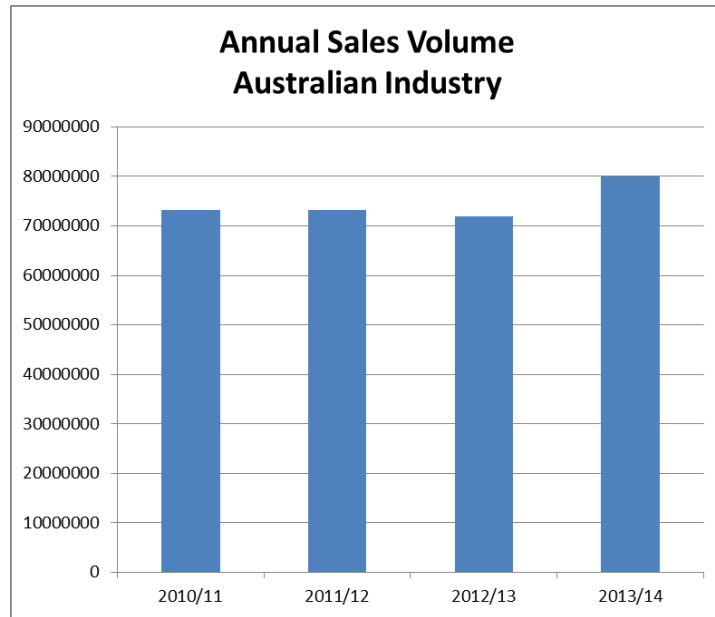
7.4 Commission's approach to assessing injury

The Commission has a significant amount of information specific to Olex as a result of the application and the verification process. The Commission received volume and net sales value data from the three other Australian industry members, but no cost data.

The Commission must consider whether there is injury to the Australian industry as a whole. Olex's sales represented over 40 per cent of total domestic sales of Australian production for like goods during the four years of the injury analysis period. Noting the high degree of price competition and the interchangeable nature of the goods and the like goods, the Commission considers Olex is a significant part of the Australian industry. The Commission has concluded that Olex's data therefore provides a reasonable proxy for considering the performance of the Australian industry as a whole when complete data for the Australian industry is unavailable.

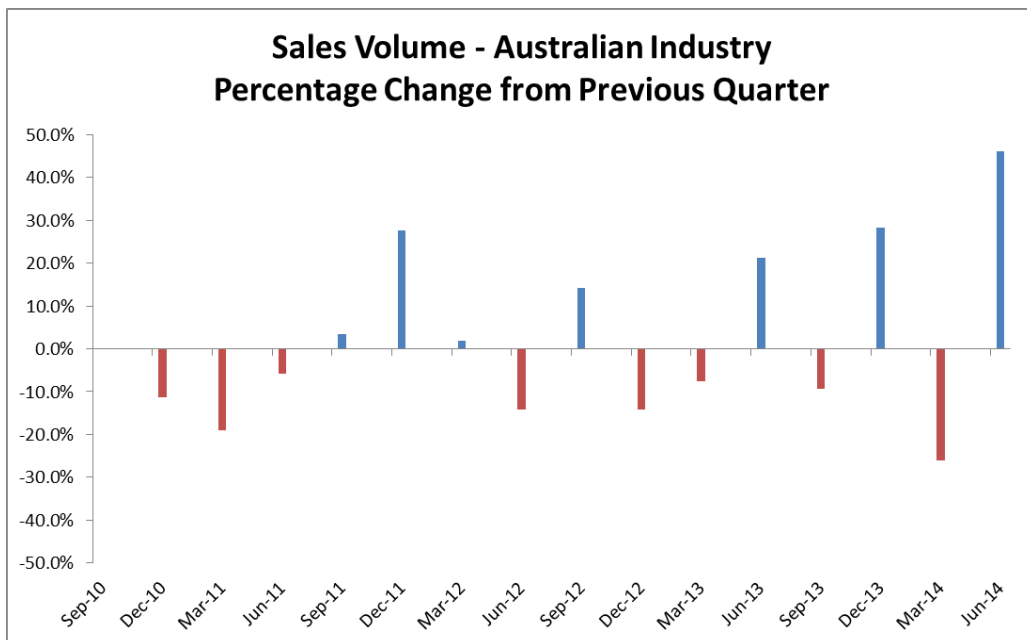
7.5 Volume trends – Australian industry

The figure below illustrates the annual volume of all Australian industry sales over the injury analysis period.



Graph 3 – Australian Industry sales volume

Graph 3 may be misleading in terms of the stability of the market – the following illustrates the volatility in sales volumes from quarter to quarter experienced during the period from 1 July 2010 to 30 June 2014.



Graph 4 – Changes in Australian Industry sales volume

Olex noted at the verification visit that injury may be suffered in a growing market if the Australian industry has not grown at the same rate as would be expected in an otherwise competitive market. Olex also pointed to the evidence provided with its application regarding specific sales volumes that were lost to Electra during the investigation period.²⁷

Noting the data presented in Graph 2 at section 5.5, above, the Commission has found that the market for PVC flat electric cable grew in 2013/14 (the investigation period), and that the increased sales were predominantly supplied by the Australian industry. As a result, the Commission has found that the Australian industry did not lose sales volume.

The Commission has also observed that the respective market shares of the Australian industry members have shifted during the course of the injury analysis period, but that these changes have predominantly been at the expense of the other Australian industry members rather than a growth in the market share represented by imported goods. As a result, the Commission has found that the Australian industry did not lose market share.

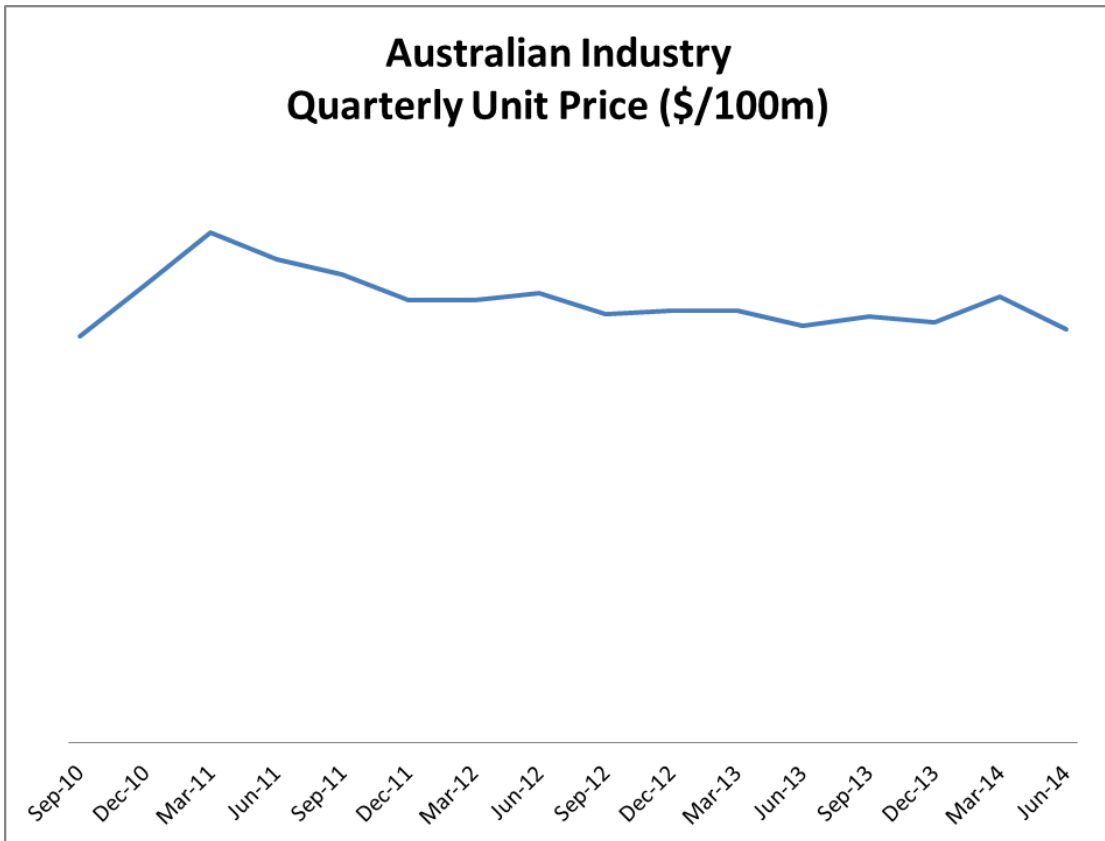
7.6 Price suppression and depression

Price depression occurs when a company, for some reason, lowers its prices. Price suppression occurs when price increases, which otherwise would have occurred, have been prevented. An indicator of price suppression may be the margin between prices and costs.

7.6.1 Price injury – Australian industry

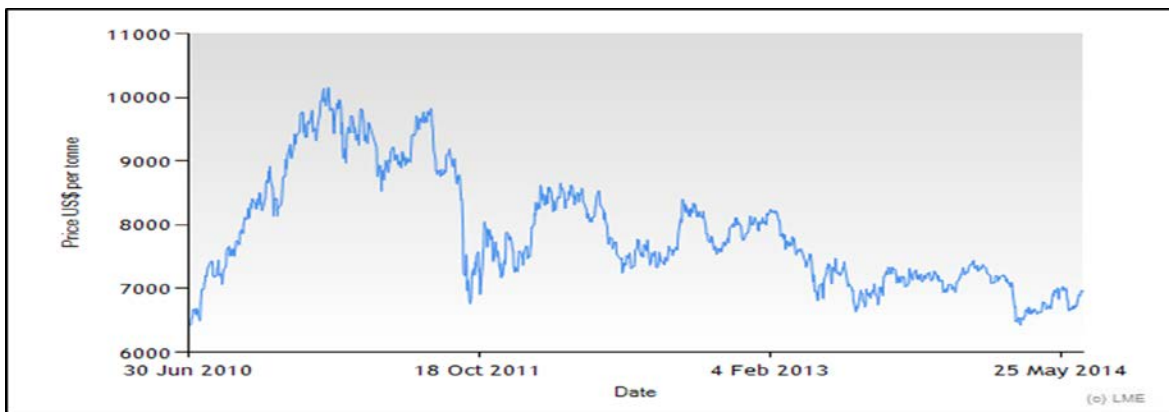
The following graph illustrates movements in the average quarterly net sales prices per 100 m of PVC flat electric cable that was obtained by the Australian industry during the period from 1 July 2010 to 30 June 2014.

²⁷ Olex's application, Confidential Attachments A-9.5.23, 30, 32, 36, 42, 45, 46, 47 and 48 refer.



Graph 5 – Australian Industry Average Unit Prices

The graph indicates that prices tend to follow movements in the copper price, as shown in Graph 6:



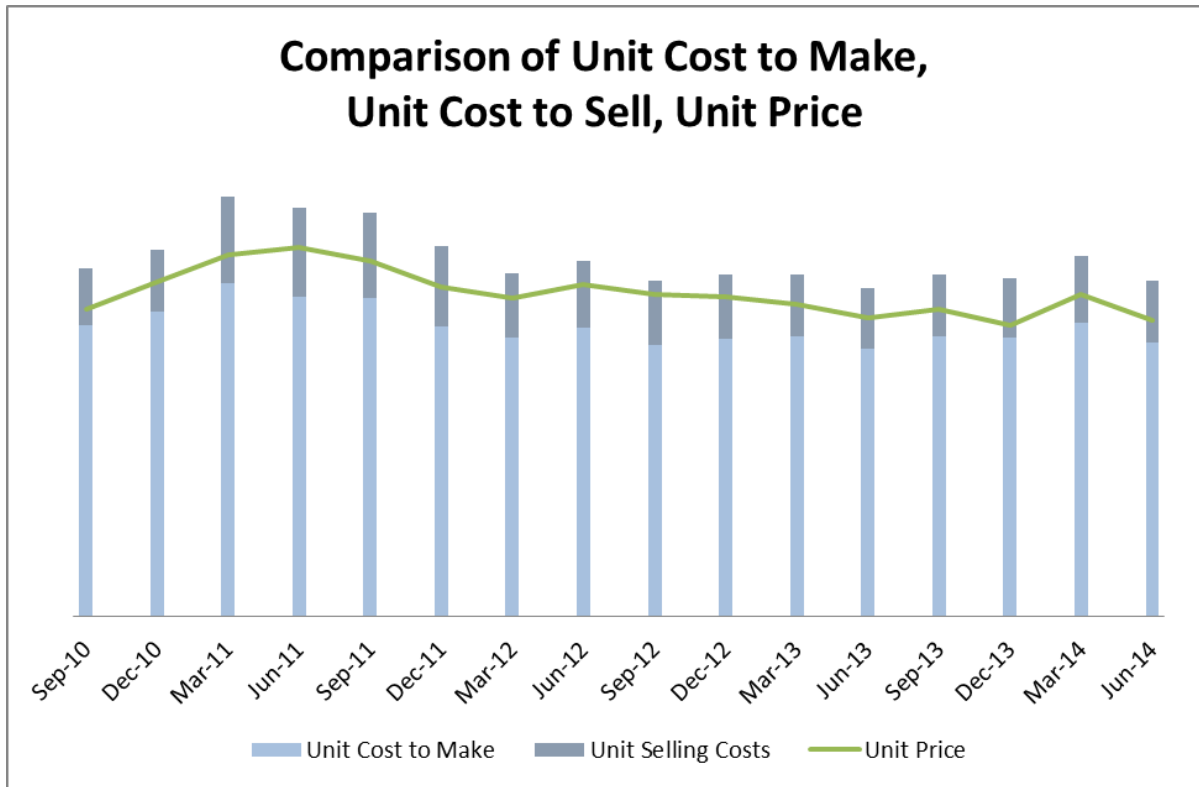
Graph 6 – London Metals Exchange: Copper Prices (Cash)

However, the range of prices achieved by each of the four Australian industry members in each quarter has narrowed in the period from 1 April 2013, consistent with the finding that the market is highly competitive and with a heavy emphasis on price competition. In the context of increasing demand and a growing market (as outlined in section 5.4, above), the Commission considers the decline in prices obtained by the Australian industry to be indicative of price depression.

7.6.2 Price injury – Olex

As outlined in the verification report, the Commission has analysed the average net unit prices for all of Olex’s sales of the like goods and found that Olex’s average price has declined during the injury analysis period. The Commission has found that Olex’s prices have therefore been depressed.

The Commission also examined the relationship between Olex’s unit cost to make, unit cost to sell and the net unit prices for each quarter of the injury analysis period, as illustrated below.



Graph 7 – Cost to Make, Cost to Sell and Price Comparison

Graph 7 demonstrates that there has been an increase in the unit selling costs in 2014 which has not been matched by an increase in the unit price, and that unit prices have at no stage recovered the combined cost to make and sell. The graph also indicates that the average unit selling price has remained consistently higher than the unit cost to make, but that the difference between the two (the gross margin) has noticeably narrowed in the period from September 2013 to June 2014. Expressed as a percentage of revenue, the movement in gross margin is shown below:



Graph 8 – Olex’s Quarterly Gross Margin

The declining gross margin trend from the December 2012 quarter has been relatively consistent. The further deterioration in the gross margin in the December 2013 and June 2014 quarters is indicative of Olex’s stated behaviour in the market and its attempt to win market share by matching the price of the imported goods.

The Commission has found that Olex’s inability to raise its prices to a level that would enable it to either make a profit or reduce its losses is indicative of price suppression. The Commission therefore considers that the above analysis indicates that there have been price depression and price suppression effects in the Australian market.

7.6.3 Price undercutting analysis

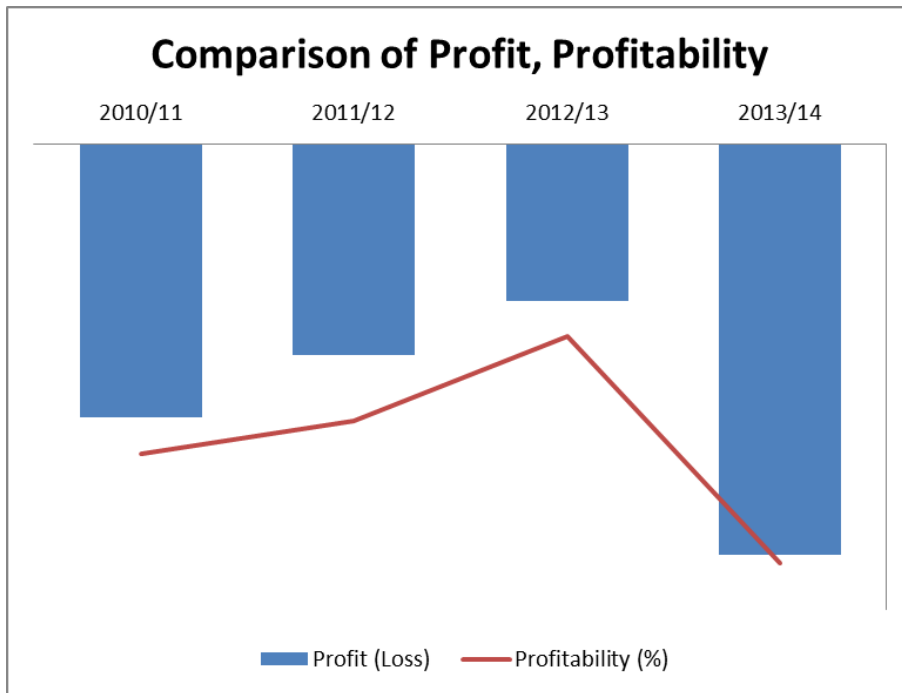
The Commission has examined the net prices obtained by Olex and Electra in the investigation period (1 July 2013 to 30 June 2014) and compared prices by model and by customer. The Commission notes that the most popular models (100 m and 500 m white) account for over 89 per cent of all sales. As a result, the data presented focuses on these models.

The Commission compared the volume and price per 100 m for sales of these two model types to the customer groups that Olex and Electra have in common. Sales to independent wholesalers or to customer groups which were unique to either supplier were excluded from the analysis to ensure that only prices won in direct competition were examined. This analysis is contained in **Confidential Appendix 10**.

Having regard to the correlation and relativity of pricing behaviours observed during the investigation period, the Commission has found that Olex and Electra compete directly in the market and generally offer similar prices to common customers. The Commission is satisfied that these behaviours are likely to be exhibited by all participants in the market.

7.7 Profits and profitability

The following chart shows movements in Olex’s profits and profitability (profits measured as a percentage of revenue) for PVC flat electric cable sales in Australia from 2010/2011 to 2013/2014.



Graph 9 – Comparison of Profit, Profitability

Graph 9 indicates that Olex’s profits and profitability in respect of domestic PVC flat electric cable sales have been negative since 2010/11, but were improving during a period of relatively stable sales volumes between 2010/11 and 2012/13. Viewed alongside Graph 8, there is a close correlation between Olex’s gross margin performance and its profit and profitability performance; the substantial increase in sales volume in 2013/14 appears to have been achieved through reducing the gross margin and therefore at the expense of profit and profitability.

The Commission finds that the data provided supports the claims made by Olex that it has experienced injury through reduced profits and profitability over the relevant period.

7.8 Other economic factors

Olex claims that it has experienced injury in respect of the following other economic injury factors:

- reduced capacity utilisation; and
- reduced employment.

These claims were examined in *Consideration Report 271*. The Commission found that the data provided in the application did not support the claims made by Olex that it has experienced material injury through reduced capacity utilisation and reduced employment during the investigation period.

No additional evidence in respect of these factors has been presented to the Commission. The Commission therefore finds that Olex has not suffered injury in the form of reduced capacity utilisation or reduced employment.

7.9 Submissions

7.9.1 Electra submission (#020 on the public record)

Prior to the publication of the SEF, Electra made a submission referring to the current case before the Federal Court in which the Australian Competition and Consumer Commission (ACCC) alleges that Olex and other members of the Australian industry and the wholesale market for electrical cable engaged in anti-competitive conduct.²⁸ Electra essentially argues that because of these allegations, “the market has been an unreliable arbiter of price during the period of investigation and that, even if dumping were to be established, price observations could not be used to establish either the cause or effect of any injury claimed to have been suffered by the Australian industry.” Accordingly, Electra argues that the Commission cannot rely on the evidence provided by Olex with respect to injury, and therefore the Commission ought to terminate the investigation.

7.9.2 Olex submission (#025 on the public record)

Olex subsequently responded to Electra’s submission, pointing to the differing functions of the ACCC and the Commission and the fact that the allegations made by the ACCC have yet to proceed to trial. Olex contends that it is erroneous to describe the allegations as being evidence of anti-competitive conduct. Olex further argues that the central allegations of anti-competitive conduct (being the fixing of cutting charges and minimum order values) are in any case not relevant to the goods under consideration and would therefore have no bearing on the injury alleged to have been caused by dumping. Olex therefore requests that the submissions made on behalf of Electra ought to be disregarded.

7.9.3 Commission’s response

The Commission considers that although the allegations made by the ACCC are significant, these allegations remain contested until such time as the process begun in the Federal Court is concluded. The Commission considers that the ACCC and the Commission are both independent statutory authorities, serving different purposes. Though the findings of one body may be persuasive to the other, each body must reach its own conclusion within its own jurisdiction according to the terms of the relevant legislation and relying appropriately on the information available to it in the exercise of its respective functions.

²⁸ The submission was received too late to be considered in the context of the SEF.

The Commission notes that any findings concerning whether material injury has been caused by dumping must be based on facts and not merely on allegations, conjecture or remote possibilities,²⁹ and that its determination of injury must be based on positive evidence (which is evidence which is affirmative, objective, verifiable and credible). All relevant economic factors must be examined, and other known factors which are also causing injury must not be attributed to the dumped imports. In this regard, the Commission considers that if the allegations made by the ACCC are ultimately proven, the Commission would need to examine whether and to what extent the anti-competitive conduct had caused injury to the Australian industry.

As the Commission has found negligible dumping by the Guilin Group, no dumping by Dongguan and no injury caused by the goods dumped by the uncooperative exporters (as discussed in Chapter 8) the Commission considers that it is not necessary to make any findings in response to the issues raised by these submissions.

7.10 Conclusion

Based on an analysis of the information contained in the application and obtained and verified during the industry visit, the Commissioner has found that the Australian industry has experienced injury in the form of:

- price depression;
- price suppression;
- reduced profits; and
- reduced profitability.

²⁹ Subsection 269TAE(2AA).

8 HAS DUMPING CAUSED MATERIAL INJURY?

8.1 Finding

The Commissioner has found that the injury, if any, suffered by the Australian industry producing like goods that was caused by the dumped goods is negligible.

8.2 Analysis

As noted in Chapter 6, the Commission has found:

- that the goods exported by the Guilin Group were dumped, but at a margin of less than 2 per cent;
- that the goods exported by Dongguan were not dumped; and
- that there is a volume of goods exported from China by all other exporters which was dumped at a margin of 7.2 per cent, and which exceeds 3 per cent of the total import volume.

Throughout the investigation, the Australian industry has framed its analysis by reference to Electra and the Guilin Group. The Commission has found that Electra is the largest importer of the goods in the Australian market, and that there is substantial price competition between it and the Australian industry. As all of Electra's sales during the period of investigation were of the goods exported exclusively from the Guilin Group and those goods were dumped at a margin of less than 2 per cent, the Commission is satisfied that any injury suffered by the Australian industry caused by competition with sales of the goods exported by the Guilin Group cannot be attributed to dumping.

The goods exported by Dongguan were not dumped, and therefore any injury suffered by the Australian industry caused by competition with sales of the goods exported by Dongguan cannot be attributed to dumping.

The remaining, uncertain volume of the goods exported from China by all other exporters appears to have had a negligible impact in the market. Although the Commission has identified that there are exporters of small volumes of the goods in the market (such as Dongguan), the Commission is satisfied that these exports represent a small proportion of the market overall. Significantly, neither the Australian industry nor Electra has indicated that there are other suppliers of the goods in the market that have an impact on the prices that they offered or the volumes that they sold during the investigation period. The Commission is satisfied that sales in Australia of the goods exported by exporters other than the Guilin Group and Dongguan have not influenced the prevailing market prices in Australia in the investigation period.

The Commissioner is therefore satisfied that the injury, if any, suffered by the Australian industry producing like goods that was caused by the dumped goods is negligible.

9 CONCLUSION

Under subsection 269TDA(1)(b)(i), if the Commissioner is satisfied that there has been no dumping by an exporter, the Commissioner must terminate the investigation so far as it relates to that exporter. The Commissioner is satisfied that the goods exported by Dongguan in the investigation period were not dumped. Therefore, the Commissioner must terminate the investigation so far as it relates to Dongguan.

Under subsection 269TDA(1)(b)(ii), if the Commissioner is satisfied that there has been dumping by an exporter, but the dumping margin is less than 2 per cent, the Commissioner must terminate the investigation so far as it relates to that exporter. The Commissioner is satisfied that the goods exported by the Guilin Group in the investigation period were dumped, but the dumping margin was less than 2 per cent. Therefore, the Commissioner must terminate the investigation so far as it relates to the Guilin Group.

Under subsection 269TDA(13), if the Commissioner is satisfied that the injury, if any, to the Australian industry caused by dumped goods is negligible, the Commissioner must terminate the investigation so far as it relates to that country. The Commissioner is satisfied that the goods exported by all exporters other than Dongguan and the Guilin Group were dumped, and that the injury, if any, to the Australian industry caused by those dumped goods is negligible. Therefore the Commissioner must terminate the investigation in relation to China.

10 APPENDICES

| | |
|------------------------------------|---|
| Non-Confidential Appendix 1 | List of Submissions received |
| Confidential Appendix 2 | Olex comparison of copper premiums |
| Confidential Appendix 3 | Analysis of copper prices paid by the Guilin Group and SHFE copper prices |
| Confidential Appendix 4 | Analysis of PVC prices paid by the Guilin Group and ICIS spot prices |
| Confidential Appendix 5 | Export Price – Guilin Group |
| Confidential Appendix 6 | Normal Value – Guilin Group |
| Confidential Appendix 7 | Dumping Margin – Guilin Group |
| Confidential Appendix 8 | Dumping Margin – Dongguan |
| Confidential Appendix 9 | Dumping Margin – Uncooperative Exporters |
| Confidential Appendix 10 | Price Undercutting Analysis – Comparison of Olex and Electra sales volumes and prices |

**INTERESTED PARTY SUBMISSIONS
RECEIVED & CONSIDERED**

| Electronic Public Record No. | Title of Submission | Party Making Submission | Date Received |
|---|---|--|--------------------------|
| 020 021 022 | Anti-competitive conduct and trade harassment in the Australian market (includes two attachments) | Electra Cables (Aust) Pty Ltd | 19 May 2015 |
| 025 | Timing of publication of exporter visit report and related matters | Olex Australia Pty Ltd | 4 June 2015 |
| 026 | <i>No Title</i> Matters relating to the level of redactions in the exporter visit report. | Guilin International Wire & Cable Group Co Ltd and related parties | 10 June 2015 |
| 029 | Submission regarding the importer visit report for Electra Cables (Aust) Pty Ltd | Olex Australia Pty Ltd | 17 June 2015 |
| 030 | Submission regarding the exporter visit report for the Guilin Group (Includes confidential attachments) | Olex Australia Pty Ltd | 17 June 2015 |
| 031 | Submission regarding the Statement of Essential Facts (Includes confidential attachments) | Olex Australia Pty Ltd | 17 June 2015 |
| 032 | <i>No Title</i> Submission in response to Electra Cables (Aust) Pty Ltd submission of 19 May 2015. | Olex Australia Pty Ltd | 17 June 2015 |

No other submissions received.